



Australian Government

Department of the Prime Minister and Cabinet

Office of Best Practice Regulation

Reference: OBPR22-03169
Telephone: 6271 6270
e-mail: helpdesk-obpr@pmc.gov.au

Mr Martin Hehir
Deputy Secretary
Workplace Relations Group
Department of Employment and Workplace Relations

Dear Mr Hehir

Regulation Impact Statement – First Pass Assessment – Enterprise Bargaining Outcomes from the Australian Jobs and Skills Summit

Thank you for your letter received 19 October 2022 submitting a Regulation Impact Statement (RIS) for formal First Pass Final Assessment. I note the RIS has been formally certified at the Deputy Secretary level consistent with the *Australian Government Guide to Regulatory Impact Analysis*.

I appreciate the Department's constructive engagement on the RIS.

The Office of Best Practice Regulation's (OBPR's) assessment is that the analysis in the RIS needs considerable development before it is used to inform a final decision. In particular, the RIS needs to:

- Provide further analysis demonstrating the capacity of government to intervene successfully, further information on the metrics of success, and a clear explanation of any barriers to achieving these goals.
- Incorporate further analysis on the costs and benefits as a result of policy change, commensurate to the magnitude and complexity of the policy options.
- Contain a description of the status of the RIS at each of the major decision points in the policy development process, including whether the RIS was used to inform each of these major decisions.

In addition, the OBPR notes your first pass certification letter states wide consultation has been undertaken. However, we have been unable to adequately assess the veracity of this statement given the specifics of that consultation are not detailed due to confidentiality reasons. Given media reports of stakeholder groups expressing concerns around inadequate consultation on the complete package, your second pass certification will need to articulate the Department's view on the adequacy of the consultation conducted.

The OBPR is also aware that the policy settings of this package continue to evolve as draft legislation is developed, and some key design elements are not yet reflected in this RIS. There are now risks to your Department from not having analysis of these new component parts assessed by the OBPR before the second pass final assessment.

More detailed comments to guide the development of the RIS are at [Attachment A](#). We stand ready to provide ongoing support and any further advice that may assist in developing the analysis in the RIS.

I look forward to receiving the RIS for Second Pass Final Assessment. The Second Pass Final Assessment will rely heavily on your certification letter, particularly where it outlines where our comments have been addressed.

If you have any further queries, please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jason Lange', written in a cursive style.

Jason Lange
Executive Director
20 October 2022

Attachment A

Further advice – Enterprise Bargaining Outcomes from the Australian Jobs and Skills Summit

General comments

- As per the *Australian Government's Guide to Regulatory Impact Analysis*, the RIS needs to contain a description of the status of the RIS at each of the major decision points.
 - E.g. a draft RIS, that had not been assessed by the OBPR, was used to inform an early policy decision to consult on options.
- The RIS would benefit from ensuring the language remains objective, balanced and avoids phrasing that could be interpreted as ‘advocacy’.
- The analysis of the declining correlation between wage growth and productivity is strong at the beginning of the RIS, and there is evidence to support the argument that a decline in Enterprise Bargaining may be a factor of this. However, efforts to reinstate this correlation needs to be better discussed throughout the RIS, in particular in the impact analysis section.
- OBPR is aware some policy decisions are still being sought that are not reflected in this RIS. These will need to be updated prior to the second pass final assessment.

What is the policy problem you are trying to solve?

- This section would benefit from a clearer distinction between the introduction/context and the problem section.
 - For example, by moving all the text under the heading ‘Collective bargaining is good for all’ to the introduction, and beginning the problem section with the section ‘Enterprise bargaining isn’t working’.
- Further discussion is required on what happens to employees when Enterprise Agreements nominally expire – for example, do wage increases still occur? How are these set? What are the incentives for employers and employees to bargain in these circumstances?
- On Page 9, the analysis states “*Chart 3 shows that enterprise agreements remain the dominant industrial instrument*”, however Chart 3 itself appears to show individual arrangements are the dominant industrial instrument.
- On Page 12, the ‘Note’ accompanying Chart 4 needs to be further explained. ‘Declined’ doesn’t seem the right word here – if it is, can it be described.

- Also, there are comments on the Chart itself:

Two comments: Chart 4 : index of productivity and real hourly earnings 1992-20

First

- The time series labelled 'productivity' appears to be the ABS 'GDP per hour worked' (and appears the trend series is used to the March quarter 2019 and thereafter the seasonally adjusted series i.e. a splice of trend and seasonally adjusted).
- The ABS notes that...
- 'Movements in chain volume estimates of GDP per hour worked are commonly interpreted as changes in labour productivity. However, it should be noted that these measures reflect not only the contribution of labour to changes in production per hour worked, but also the contribution of capital and other factors' (emphasis added)
- <https://www.abs.gov.au/methodologies/australian-national-accounts-national-income-expenditure-and-product-methodology/jun-2022>
- **Recommendation**: This data time series be labelled 'GDP per hour worked', and appropriate caveats around use as a proxy for productivity be included (somewhere).

Second

- The Real hourly wages series appears to be deflated by the GDP implicit price deflator (IPD) rather than the IPD for household final consumption.
- The Treasury notes that...
- 'Consumers are concerned with how their wages compare with the cost of goods and services they purchase. This is referred to as the real consumer wage – the nominal wage deflated by the prices consumers pay for goods and services (in this case, the household final consumption deflator) (emphasis added).'
- Treasury (2017) Analysis of wage growth, page17
<https://treasury.gov.au/publication/p2017-t237966>
- **Recommendation**: Check the household final consumption deflator has been used rather than the GDP deflator.

Why is Government action needed?

- This section would benefit from further analysis demonstrating the capacity of the Government to intervene successfully.
 - It would benefit from further information on the metrics of success. As it stands, the only outcome identified is an ‘increase in the number of agreements lodged’.
 - The analysis would be strengthened by clearly identifying what level of increase is needed to drive the desired increase in wages and working conditions for employees, and productivity gains for employers. Flowing from this, analysis could consider how likely the Government is to achieve this level of gains as a result of the proposed measures.
 - It would then be strengthened by discussion of the barriers the Government may face in achieving this determined level, and the pre-planning undertaken to mitigate these potential risks.
- This section would also benefit from further analysis as to the alternatives to government action, including an explanation of potential market based solutions.

What policy options are you considering?

- The third option (non-preferred) provided in each case should be strengthened to demonstrate it is a genuine and viable option to address the policy.
- Under 3.3 - The status quo option for low paid bargaining stream:
 - This section would benefit from further explanation, including on whether a ‘low-paid authorisation’ requires the enterprise to bargain, or if it is voluntary; and how enterprises can apply to be removed from the authorisation.
- Under 3.4 - The status quo option for third party intervention:
 - This section would benefit from further detail into what this actually involves. What does it mean in practice to intervene?
- Under 3.4 - Option two - Making BOOT simpler
 - The Last sentence states pre-post approval processes “May be altered”. The RIS needs to clarify if they will or won’t.

What is the likely net benefit of each option?

- General comments
 - There needs to be considerably more analysis on DEWR's assessment of the potential productivity impacts, real wages, power imbalances, other distributional impacts and impacts on government (e.g. Fair Work Commission resourcing).
 - There needs to be a considerably more balanced discussion around some of the more contentious proposals, including addressing the public views of stakeholders.
 - Where data is not available to support arguments, the RIS needs to be transparent about this.
 - The regulatory cost estimates do not include any consideration of the cost to business in understanding the new requirements. Nor is there evidence that any of the assumptions and regulatory costs have been tested with stakeholders. This too needs to be made transparent.
- Under 4.1 (unilateral terminations)
 - Under Status quo
 - There is no quantitative or qualitative data provided outlining costs and/or benefits of this policy option. The RIS could be strengthened by including a case study that demonstrates the issues with the status quo, as well as outline how the impacts are currently distributed.
 - Under option two:
 - The RIS would benefit from demonstrating with evidence the actual extent of the power imbalance and how that plays out.
 - The problem section refers to a case of Griffin Coal. This sort of information is invaluable in demonstrating exactly what the impacts will look like, and further evidence of this nature should be used where possible.
 - Further clarifying the likely felt benefits to employees as a result of this option.
- Under 4.2 ('zombie' agreements)
 - General comments
 - What will be the impact for those currently on Australian Workplace Agreements?
 - Are they likely to be on these voluntarily? Would they not have converted to individual contracts, or Enterprise Agreements, or awards, if they were worse off on the Australian Workplace Agreements?

- Under Status quo
 - There is no quantitative or qualitative data provided outlining costs and/or benefits of this policy option.
 - The RIS would be strengthened by including a case study that demonstrates the issues with the status quo, as well as outline how the impacts are currently distributed.
- Under option two
 - Greater specificity in data being put forward, for example using terminology such as ‘some increase in regulatory costs/ small number of regulatory costs’ is not informative.
 - Clarify how the figure of an additional \$5 per employee for one month to change their pay role was derived.
 - There is a reference that the success of this measure is somewhat reliant on the successful implementation of the Better Off Overall Test measure.
 - It needs to be made explicitly clear that the BOOT is still subject to agreement as part of this decision making process. Costs/ benefits of negotiating new agreements if ‘zombie’ agreements sunset needs to be based on the existing status quo. Additional analysis can then be described based on the proposed future settings.
 - Clarify the contradictory claims regarding the number of ‘zombie’ agreements and subsequent impacts on employers/employees
 - Provide evidence of the number of ‘zombie’ agreements with unfavourable conditions to award rates and the number with superior employee entitlements. This data is crucial in demonstrating to the decision maker the problem with these agreements continuing.
- Under option three
 - Further to above, evidence to demonstrate the costs and benefits of automatic termination of ‘zombie’ agreements.
- Under 4.3 (Improving access to single and multi-employer agreements)
 - Under option 2, impacts on employers, the following formula is used:
 - Average number of employers per multi-enterprise agreement x 3.29 hours x labour cost x median days of bargaining per multi-enterprise agreement by size of business.
 - Further explanation is required to demonstrate:
 - How the average number of employers per multi-enterprise agreement was calculated, and what it specifically represents. I.e. where does the ‘15.2’ come from?
 - Any assumptions need to be made explicitly clear to the reader.

- A 'per-business' cost should be added to illustrate the total costs facing individual businesses affected by the process.
- Further information around the methodology used in previous RISs to derive the 3.29 hours per day per bargaining period figure.
 - A reference/footnote of this explanation should be included at each subsequent use.
- An explanation of how the \$175 per hour fee for professional services was derived.
 - Please note the following calculations in the RIS have not been multiplied by 2 (the quoted points below suggest they need to be).
 - $\$175 \times 3.29 \times 31$ (small business) $\times 2 = \$17,848$
 - $\$175 \times 3.29 \times 170$ (medium) $\times 2 = \$96,877$
 - This figure of \$96,877 is a typo, it should read \$97,877.
 - $\$175 \times 3.29 \times 200$ (large) $\times 2 = \$115,150$
 - Should also tally up all these costs and present as a 'per-business' cost.
- Clarify in the calculations for medium and large businesses that the final figure is 170 **days** and 200 **days** respectively.
 - Provide some information on how this number has been determined.
 - Noting these figures appear to be different from the ones used in the status quo determination of 4.4.
- A few further questions to be answered:
 - Do impacts vary between single interest and the cooperative workplace stream?
 - What are the significant benefits alluded to by being covered by the Enterprise Agreement?
 - What are the costs associated with remaining covered by the modern award?
- Under impacts on employees:
 - Significantly more analysis is required to demonstrate the costs and benefits of this option.
 - Particularly light on the distributional analysis, including gender analysis.

- Under industrial action
 - This section needs to contain a more balanced discussion that addresses employer group concerns raised in the media, and presumably in confidential discussions.
- There is reference on Page 28 that the policy proposes to amend content restrictions in enterprise agreements, however this is not mentioned in the impact analysis.
- Under 4.4 (BOOT)
 - Under option two
 - On impact on employers (changes to genuine agreements):
 - More detail is required on what the 7 day access period is.
 - This appears to proportionately benefit small businesses. This would be worth a discussion if that is the case.
 - On simplification of BOOT
 - A discussion around what business types/ sizes typically have complex / simple agreements would aid understanding of these impacts.
- Under 4.5 (Increase capacity of Fair Work Commission)
 - Under option two
 - Impact on employers
 - Further information should be provided confirming that arbitration is expected to last as long as bargaining. This should be supplemented with further information to assist the reader understand the impacts under each scenario.
 - Impact on employees
 - Further analysis on whether this could lead to a larger impact on wages. Is it possible/probably that employers might be fearful of going to arbitration given the uncertainty, and therefore concede more ground than they might have under the status quo?

Who did you consult and how did you consult them?

- Where possible:
 - It would benefit from identifying the broad-based set of stakeholders consulted, demonstrating the diversity of views incorporated into the formulation of policy options.
 - Demonstrate consultation was undertaken in good faith, with analysis of how stakeholders' views were incorporated into the final options.
 - Summarise the points of agreement, and the points of disagreement.

- This section would benefit from clearly outlining the plan for consultation
 - For example:
 - Listing questions posed to different stakeholders, the medium for consultation, timelines and response times
- Acknowledging limitations posed by confidential submissions, high level analysis that outlines shared and dissenting views of stakeholders is required in this section.
- Identify areas of policy that have been directly shaped by feedback received by stakeholders, in other words, what concerns did stakeholders identify in draft policy that resulted in changes to the policy?
 - Were any options raised by stakeholders **not** taken into consideration? If so, why?
 - Similarly, areas of disagreement amongst stakeholders should be highlighted.

What is the best option?

- As flagged above, the third option of each aspect contains little analysis, which prevents a genuine comparison of these supposed viable options.

Implementation and evaluation

- If it is the case, the RIS needs to specify no formal evaluation is planned.
- The RIS needs to provide a clearer indication of how the proposal will be implemented, including analysis of potential implementation risks.

Teams log – s 22(1) and s 22(1)

[22/10 9:48 am] s 22(1)

hey i changed footnote 70. it was linked to some bullshit mindset self development website
laugh 1

[22/10 9:48 am] s 22(1)

it related to professional services fees

[22/10 9:49 am] s 22(1)

so i just changed it to say the department estimated the costs based on prevailing rates in the
sector, but the fee is likely to be lower if purchased on a fixed cost basis, or if the matter is low
complexity

[22/10 9:49 am] s 22(1)

sorry i know i asked everyone to watch their footnoting but they didnt. just annoying.
sad 1

Teams log – s 22(1) and s 22(1)

[22/11 10:01 am] s 22(1)

Martin asking about the RIS

[22/11 10:01 am] s 22(1)

On small business impact of bargaining

[22/11 11:50 am] s 22(1)

this is unbearable

[22/11 11:50 am] s 22(1)

all because of a versioning error

[22/11 11:51 am] s 22(1)

These things happen

[22/11 3:53 pm] s 22(1)

Is there a Hayes website that says \$175??

[22/11 3:57 pm] s 22(1)

[Salary Checker 2022 - Hays Salary Guide Australia | Hays](#)

Salary Checker 2022 - Hays Salary Guide Australia | Hays
Looking for a new job or a pay rise? Use the Hays Salary Checker to compare salaries for your role or position in Australia.

[22/11 3:58 pm] s 22(1)

how do you get to \$175?

[22/11 3:58 pm] s 22(1)

we did this with the MO just prior to QT and s 22(1) took screenshots

[22/11 3:58 pm] s 22(1)

Oh great can you walk me through it too?

[22/11 3:58 pm] s 22(1)

you convert the salary to an hourly rate

[22/11 3:59 pm] s 22(1)

sorry

[22/11 3:59 pm] s 22(1)

So what are the things I need to put in the fields?

[22/11 4:00 pm] s 22(1)

jst with s 22(1) finalising the changes w s 22(1)

[22/11 4:00 pm] s 22(1)

Ok

[22/11 4:00 pm] s 22(1)

but see the message below:

According to [Hayes Salary Checker 2022/23](#), the professional services fee for undertaking a bargaining process is \$174.60 per hour. The modelling is based on a bargaining team with three positions and based in Sydney.

- The average IR Manager earns \$160,000 annually (or \$80.97 per hour)
- The average IR Advisor earns \$115,000 annually (or \$58.20 per hour)
- The average HR Administrator earns \$70,000 annually (or \$35.43 per hour)
- = \$174.60 per hour

The above is likely a high-end assumption of the costs in order to account for incidental costs associated with their position (printing, pay roll etc). Different sized enterprises may not require all three of these positions within the bargaining team.

Salary Checker 2022 - Hays Salary Guide Australia | Hays

Looking for a new job or a pay rise? Use the Hays Salary Checker to compare salaries for your role or position in Australia.

[22/11 4:03 pm] s 22(1)

Martin's in with COSBOA now but I think if we just explain how we got to the \$175 via the Hays Salary Checker, that will be good

[22/11 4:18 pm] s 22(1)

yeah i think theres some crossed wires too a

[22/11 4:18 pm] s 22(1)

we're on the phone with ^{s 22(1)} trying to just get ourselves sorted

[22/11 5:42 pm] s 22(1)

Hey--Martin's about to call ^{s 22(1)} and ^{s 22(1)} about the Hays salary checker only being used today

[22/11 5:42 pm] s 22(1)

You might want to go in to ^{s 22(1)} office just in case

[22/11 5:42 pm] s 22(1)

i will

[22/11 5:43 pm] s 22(1)

i want to hear how this ends before i finalise the QON if thats okay

Team log – s 22(1) and s 22(1)

[22/11 10:15 am] s 22(1)
that 'authentic' link is not a good look

[22/11 10:15 am] s 22(1)
i had removed it!

s 22(1)

From:
Sent: Tuesday, 22 November 2022 3:22 PM
To:
Subject: RE: Media enquiry - SMH/The Age - SJB consultants [SEC=OFFICIAL]

Response to SMH, 22 Nov 2022

- The hourly consultancy rate used by the Department was a best estimate of the cost to engage a team of consultants in negotiating a complex enterprise agreement. The Office of Best Practice Regulation agreed to this approach.
- The approach of using salary or consultancy benchmark indicators is consistent with the Department's past approach establishing the impacts of workplace relations legislation.
- An incorrect website link that was not used in the analysis was incorrectly included in the Regulation Impact Statement. The Department consulted the Hayes Salary Checker to assist in ascertaining this cost.

s 22(1)

s 22(1)

s 22(1)

| Bargaining Policy

From: s 22(1)
Sent: Tuesday, 22 November 2022 2:39 PM
To: s 22(1)
Cc: s 22(1)
Subject: RE: Media enquiry - SMH/The Age - SJB consultants [SEC=OFFICIAL]

I think we should be brief with this one so would suggest these two lines from the TPs:

- The hourly consultancy rate used in estimating bargaining costs was based on the Hayes salary checker and consistent with the approach previously used by the department, which was approved by the Office of Best Practice Regulation.
- An incorrect website link that was not used in the analysis was incorrectly included in the Regulation Impact Statement.

If you want to add more detail you can add this breakdown but I don't think its necessary as he's not asking about the figure itself.

Background

- The Department estimates that the cost for consultants for a large, complex bargain. Based on the Hayes Salary Checker 2022/23:
 - An IR Manager at \$80.97 per hour
 - An IR Advisor earns \$115,000 annually (or \$58.20 per hour)
 - An HR Administrator earns \$70,000 annually (or \$35.43 per hour)
 - This is a total of \$174.60 per hour

s 22(1)

From: s 22(1)
Sent: Tuesday, 22 November 2022 2:32 PM
To: s 22(1)

Cc: s 22(1)

Subject: FW: Media enquiry - SMH/The Age - SJBP consultants [SEC=OFFICIAL]

Hey ^{s 22(1)} could you please start on this one?

s 22(1)

s 22(1)

s 22(1)

| Bargaining Policy

From: s 22(1)

Sent: Tuesday, 22 November 2022 2:11 PM

To: s 22(1)

Subject: RE: Media enquiry - SMH/The Age - SJBP consultants [SEC=OFFICIAL]

We can take this ^{s 22(1)}

s 22(1)

P: s 22(1)

| M: s 22(1)

| s 22(1)

From: s 22(1)

Sent: Tuesday, 22 November 2022 2:00 PM

To: s 22(1)

Cc: s 22(1)

Subject: FW: Media enquiry - SMH/The Age - SJBP consultants [SEC=OFFICIAL]

Importance: High

Hi s 22(1)

Is this something that your team can please respond to? Happy to discuss/support as required. Grateful confirmation so that we can let media know. ^{s 22(1)} is checking whether Martin needs to clear.

Thank you

^{s 22(1)}

s 22(1)

Mobile s 22(1)

The Department of Employment and Workplace Relations acknowledges the traditional owners and custodians of country throughout Australia and their continuing connection to their community. We pay our respects to them and their cultures, and Elders past, present and emerging.

From: DEWR - Media <media@dewr.gov.au>

Sent: Tuesday, 22 November 2022 1:37 PM

To: s 22(1)

Cc: DEWR - Media <media@dewr.gov.au>; DEWR - Media <media@dewr.gov.au>; s 22(1)

s 22(1)

s 22(1)

Subject: Media enquiry - SMH/The Age - SJBP consultants

Good afternoon everyone,

We've received the following media enquiry from SMH/The Age (which you may be aware of an article [that popped up a short time ago.](#))

Can we please get a proposed response by **4pm please?**

Apologies in advance for the tight turnaround, but happy to discuss further via Teams.

Cheers

s 22(1)

Media

Australian Government Department of Employment and Workplace Relations

Phone s 22(1)

www.dewr.gov.au

s 22(1)

s 22(1)

s 22(1)

From: s 22(1)

Sent: Tuesday, 22 November 2022 3:27 PM

To: DEWR - Media <media@dewr.gov.au>; s 22(1)

Cc: s 22(1)

Subject: RE: URGENT: MEDIA ENQUIRY: The Australian - Bargaining costs [SEC=OFFICIAL]

Hi – Martin Hehir has cleared the following response.

- The Department of Employment and Workplace Relations modelled indicative impacts for the Regulation Impact Statement (RIS) for the Government's bargaining reforms. The Department acknowledged up front in the RIS and during the Senate inquiry the difficulties in modelling costs and impacts in a multi-faceted, dynamic workplace relations system.
- The indicative costs presented in the Regulation Impact Statement are professional services fees for a complex multi-employer bargaining process. The impact modelling in the Regulation Impact Statement notes that businesses are likely to share bargaining costs. There are other factors which mitigate the bargaining costs to business, such as being represented by an employer organisation and having previous bargaining experience.
- The hourly consultancy rate used in estimating bargaining costs was based on the Hayes salary checker and consistent with the approach previously used by the department, which was approved by the Office of Best Practice Regulation. An incorrect website link that was not used in the analysis was incorrectly included in the RIS.
- The Department notes that small businesses can only be compelled to bargain for a multi-enterprise agreement under the supported bargaining stream, which is already the case in the low-paid bargaining stream on which it is based.
- The Government's reforms are underpinned by dedicated funding in the October 2022-23 Budget. The Budget provides \$7.9 million over the forward estimates going to the Fair Work Commission to provide to provide specific small business bargaining support to simplify the agreement making process and increase the use of enterprise agreements by small business.

- The Productivity Commission recently stated that expanded access to multi-employer bargaining could help improve wages and reduce transaction costs for small business, enabling them to take advantage of any economies of scale in bargaining, sharing the burden and resource intensity of bargaining across firms.

s 22(1)

P: s 22(1) | M: s 22(1) | s 22(1)

s 22(1)

s 22(1)

s 22(1)

Teams Conversation

[22/11 4:33 pm] s 22(1)

The Department estimates this figure on the basis of prevailing professional services fees. The hourly rate is likely to be lower if services are purchased on a fixed cost basis or if the project is of low complexity.

[22/11 4:33 pm] s 22(1)

this was our footnote on the 22/10 draft

[22/11 4:33 pm] s 22(1)

for the \$175 figure

s 22(1)

From: s 22(1)
Sent: Tuesday, 22 November 2022 5:13 PM
To: DEWR - Media
Cc: s 22(1)
 HEHIR, Martin
Subject: FW: URGENT: MEDIA ENQUIRY: The Australian - Bargaining costs [SEC=OFFICIAL]

Hi Media

Please use these revised points for future requests. Martin has cleared.

- The Department of Employment and Workplace Relations modelled indicative impacts for the Regulation Impact Statement (RIS) for the Government's bargaining reforms. The Department acknowledged up front in the RIS and during the Senate inquiry the difficulties in modelling costs and impacts in a multi-faceted, dynamic workplace relations system.
- The indicative costs presented in the Regulation Impact Statement are professional services fees for a complex multi-employer bargaining process. The impact modelling in the Regulation Impact Statement notes that businesses are likely to share bargaining costs. There are other factors which mitigate the bargaining costs to business, such as being represented by an employer organisation and having previous bargaining experience.
- The hourly consultancy rate used in estimating bargaining costs involved consulting a broad range of sources. This approach has been used previously by the department and was approved by the Office of Best Practice Regulation. In this instance, the department utilised rates for an IR Manager, IR Adviser, and HR Admin role in Sydney from the Hays salary checker. The website link in question was incorrectly included in the RIS.
- The Department notes that small businesses can only be compelled to bargain for a multi-enterprise agreement under the supported bargaining stream, which is already the case in the low-paid bargaining stream on which it is based.
- The Government's reforms are underpinned by dedicated funding in the October 2022-23 Budget. The Budget provides \$7.9 million over the forward estimates going to the Fair Work Commission to provide to provide specific small business bargaining support to simplify the agreement making process and increase the use of enterprise agreements by small business.
- The Productivity Commission recently stated that expanded access to multi-employer bargaining could help improve wages and reduce transaction costs for small business, enabling them to take advantage of any economies of scale in bargaining, sharing the burden and resource intensity of bargaining across firms.

Purpose of the RIS

- As stated on the website of the Office of Best Practice Regulation: 'Impact analysis helps policymakers consider how proposals affect businesses, individuals and community organisations, as well as broader economic and other impacts.' The Department of Employment and Workplace Relations prepared a Regulatory Impact Statement to aid the Government's policy decision making in relation to reforming the enterprise bargaining system, including a cost-benefit analysis of different policy reform options.
- The impacts outlined in the Regulatory Impact Statement are indicative only, and don't predict an exact cost to each business engaged in bargaining system. The Department has acknowledged up front in the Regulatory Impact Statement and during the Senate inquiry into the Secure Jobs, Better Pay Bill the difficulties in modelling costs and impacts in a multi-faceted,

dynamic workplace relations system. It is not possible to come up with a determinative, one-size fits all estimation of cost to businesses.

- These potential impacts are not novel – businesses are already engaged in the enterprise bargaining system. The Government has weighed up the estimated regulatory costs of the bargaining reforms against the positive impacts on Australian businesses, workers and the economy and decided that these bargaining reforms are necessary.

s 22(1)

s 22(1)

s 22(1)

Martin Hehir, Deputy Secretary

Workplace Relations Group

Mobiles 22(1)

From: s 22(1)

Sent: Tuesday, 22 November 2022 4:25 PM

To: s 22(1)

Subject: FW: URGENT: MEDIA ENQUIRY: The Australian - Bargaining costs [SEC=OFFICIAL]

Hi s 22(1) – can you please check the following highlighted line with Martin?

From: DEWR - Media <media@dewr.gov.au>

Sent: Tuesday, 22 November 2022 3:30 PM

To: s 22(1)

Cc: s 22(1)

s 22(1)

Subject: RE: URGENT: MEDIA ENQUIRY: The Australian - Bargaining costs [SEC=OFFICIAL]

Many thanks – we'll send that on to the MO for their clearance.

Cheers

s 22(1)

From: s 22(1)

Sent: Tuesday, 22 November 2022 3:27 PM

To: DEWR - Media <media@dewr.gov.au>; s 22(1)

Cc: s 22(1)

Subject: RE: URGENT: MEDIA ENQUIRY: The Australian - Bargaining costs [SEC=OFFICIAL]

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- The indicative costs presented in the Regulation Impact Statement are professional services fees for a complex multi-employer bargaining process. The impact modelling in the Regulation Impact Statement notes that businesses are likely to share bargaining costs. There are other

factors which mitigate the bargaining costs to business, such as being represented by an employer organisation and having previous bargaining experience.

- The hourly consultancy rate used in estimating bargaining costs was based on an approach previously used by the department, consulting a range of sources and was approved by the Office of Best Practice Regulation. For example, utilising rates for an IR Manager, IR Adviser, and HR Admin role in Sydney from the Hayes salary checker. The website link was incorrectly included in the RIS.

- The Department notes that small businesses can only be compelled to bargain for a multi-enterprise agreement under the supported bargaining stream, which is already the case in the low-paid bargaining stream on which it is based.

- The Government's reforms are underpinned by dedicated funding in the October 2022-23 Budget. The Budget provides \$7.9 million over the forward estimates going to the Fair Work Commission to provide to provide specific small business bargaining support to simplify the agreement making process and increase the use of enterprise agreements by small business.

- The Productivity Commission recently stated that expanded access to multi-employer bargaining could help improve wages and reduce transaction costs for small business, enabling them to take advantage of any economies of scale in bargaining, sharing the burden and resource intensity of bargaining across firms.

s 22(1)

P s 22(1)

| M s 22(1)

| s 22(1)

s 22(1)

s 22(1)

s 22(1)

s 22(1)

From: HEHIR,Martin
Sent: Tuesday, 22 November 2022 6:50 PM
To: s 22(1)
Subject: FW: Consultant figures [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

As discussed with s 22(1)

OFFICIAL: Sensitive

From: s 22(1)
Sent: Tuesday, 22 November 2022 6:44 PM
To: HEHIR,Martin <Martin.Hehir@dewr.gov.au>; s 22(1)
Cc: s 22(1)
Subject: FW: Consultant figures [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

As requested

s 22(1)
 P: s 22(1) | M: s 22(1) | s 22(1)

OFFICIAL: Sensitive

From: s 22(1)
Sent: Tuesday, 22 November 2022 6:42 PM
To: s 22(1)
Subject: RE: Consultant figures [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

Hi s 22(1)

Please see below. I used these website (including some government legal services guides) to form my view on whether \$175 was an acceptable amount. \$175 per hour is a high rate and would be enough to engage more than one person usually. I believed that providing a high figure was preferable to providing a figure which OBPR might determine was too low.

Please note that these give annual salaries. You can determine an approximate hourly rate by dividing the annual salary by 52 and then by 38.

AFR guide

[Consultant salary guide: What Accenture, Deloitte, KPMG and PwC pay \(afr.com\)](#) (AUS)

This page contains a table for management consultants and for auditors.

Rank	Firm	Typical Experience (years)	Minimum pay (\$)
Associate	Accenture	1-2	54,700
Associate	PwC (consulting)	0-4	61,300
Graduate/Consultant	KPMG (consulting)	0-2	66,000
Graduate (2023)	Deloitte (consulting)	0-1	67,000
Analyst/Graduate	Accenture	2-3	68,000
Graduate	PwC (firmwide)	0+	69,000
Consultant	Deloitte (consulting)	1-3	75,000
Senior Associate	PwC (consulting)	4-7	77,600
Senior Analyst	Accenture	2-3	77,700
Senior Consultant	KPMG (consulting)	2-3	81,500
Team Lead/Consultant	Accenture	3-5	100,000
Senior consultant	Deloitte (consulting)	3-5	100,000
Manager	PwC (consulting)	7-10	104,700
Manager	KPMG (consulting)	4-6	112,000
Associate Manager	Accenture	4-5	115,000
Manager	Deloitte (consulting)	5-7	125,000
Senior Manager	PwC (consulting)	10+	137,100
Manager	Accenture	4-6	139,400
Associate Director	KPMG (consulting)	6-8	145,000

Senior manager/associate director	Deloitte (consulting)	7-9	150,000
Senior Manager	Accenture	5-9	175,200
Director	PwC (consulting)	10+	184,800
Director**	Deloitte (consulting)	9+	190,000
Director	KPMG (consulting)	8+	200,000
Principal**	Deloitte (consulting)	12+	220,000

Payscale

[Employee Relations Specialist Salary in Australia | PayScale](#)

\$88,609 per annum, \$44.84/h

[Employee Relations Manager Salary in Australia | PayScale](#)

\$140,893 per annum, \$71.30/h

[https://www.payscale.com/research/AU/Industry=Business Consulting/Hourly Rate](https://www.payscale.com/research/AU/Industry=Business_Consulting/Hourly_Rate)

\$29.49/h base rate

The Department used PayScale for the Fair Work Amendment Bill 2014, but it is no longer as useful. I reviewed Employee Relations Specialist, Employee Relation Manager and Business Consulting rates.

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This page lists day rates for UK consulting firms so I did not rely on this to form my judgement.

Regards,

s 22(1)

s 22(1)

Bargaining Policy | Bargaining and Industry Policy Branch

Safety and Industry Policy Division

Australian Government Department of Employment and Workplace Relations

Phone s 22(1)

dewr.gov.au

The Department of Employment and Workplace Relations acknowledges the traditional owners and custodians of country throughout Australia and their continuing connection to their community. We pay our respects to them and their cultures, and Elders past, present and emerging.

OFFICIAL: Sensitive

s 22(1)

From: s 22(1)
Sent: Tuesday, 22 November 2022 7:13 PM
To: HEHIR,Martin
Cc: s 22(1) DEWR - Media
Subject: RE: Consultant figures [SEC=OFFICIAL:Sensitive]
Categories: Actioned, For information

OFFICIAL: Sensitive

Hi Martin, thank you again for the chat.

I've discussed this with my director s 22(1), and we'd propose sending these lines through to the MO for their consideration, before providing to the four reporters we responded to earlier today;

The link was used as part of an internal desktop review, which used a range of sources to determine an indicative cost as part of the RIS.

It was incorrect to use the link as being the only source referenced in that section of the RIS.

The department apologises for the confusion, and stands by its processes.

Happy to discuss.

Cheers
 s 22(1)

OFFICIAL: Sensitive

From: HEHIR,Martin <Martin.Hehir@dewr.gov.au>
Sent: Tuesday, 22 November 2022 6:49 PM
To: s 22(1)
Subject: FW: Consultant figures [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

OFFICIAL: Sensitive

From: s 22(1)
Sent: Tuesday, 22 November 2022 6:44 PM
To: HEHIR,Martin <Martin.Hehir@dewr.gov.au>; s 22(1)
Cc: s 22(1)
Subject: FW: Consultant figures [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

As requested

s 22(1)

P: s 22(1) | M: s 22(1) | s 22(1)

OFFICIAL: Sensitive

From: s 22(1)

Sent: Tuesday, 22 November 2022 6:42 PM

To: s 22(1)

Subject: RE: Consultant figures [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

Hi s 22(1),

Please see below. I used these website (including some government legal services guides) to form my view on whether \$175 was an acceptable amount. \$175 per hour is a high rate and would be enough to engage more than one person usually. I believed that providing a high figure was preferable to providing a figure which OBPR might determine was too low.

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Regards,

s 22(1)

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Bargaining Policy | Bargaining and Industry Policy Branch

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Australian Government Department of Employment and Workplace Relations

Phone s 22(1)

dewr.gov.au

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OFFICIAL: Sensitive

s 22(1)

From: DEWR - Media
Sent: Tuesday, 22 November 2022 8:47 PM
To: s 22(1)
Cc: s 22(1) HEHIR,Martin; s 22(1)
Subject: RE: Proposed response (SMH, The Aus, West Aus, AFR) - RIS [SEC=OFFICIAL]

Categories: Actioned, For information

Hi s 22(1), as discussed, tweaking that final line below (with thanks to Martin for his help with this);

The link was used as part of an internal desktop review, which used a range of online sources to determine an indicative cost as part of the RIS. This included websites such as the AFR, PayScale, Talent.com and LinkedIn.

It was incorrect to use the link as being the only source referenced in that section of the RIS.

The department apologises for the confusion, and stands by its processes.

Note: This supersedes an earlier statement which incorrectly quoted Hays as being a source used by the department in the original RIS. Hays was used to subsequently verify the figures used.

Once the office is happy with this, we can send that statement to the reporters who received the original response earlier today.

Cheers
s 22(1)

From: DEWR - Media <media@dewr.gov.au>
Sent: Tuesday, 22 November 2022 8:03 PM
To: s 22(1)
Cc: s 22(1)
HEHIR,Martin <Martin.Hehir@dewr.gov.au>; s 22(1) DEWR - Media
<media@dewr.gov.au>
Subject: RE: Proposed response (SMH, The Aus, West Aus, AFR) - RIS [SEC=OFFICIAL]

Hi s 22(1), thanks again for the chat.

Proposing to send this clarification to reporters, following consultations with Martin Hehir;

The link was used as part of an internal desktop review, which used a range of online sources to determine an indicative cost as part of the RIS. This included websites such as the AFR, PayScale, Talent.com and LinkedIn.

It was incorrect to use the link as being the only source referenced in that section of the RIS.

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s 22(1)

s 22(1)

s 22(1)

